

REMARKS

Claim 1 has been amended to better define the claimed invention and to better distinguish the claimed invention from the prior art.

Turning to the art rejections, rejections under 35 U.S.C. § 102(b) are only proper when the claimed subject matter is identically disclosed or described in the prior art cited as evidence of anticipation. *In re Arkley*, 172 U.S.P.Q. 524, 526 (C.C.P.A. 1972). The Examiner's rejections do not meet this standard for Claim 1 as now amended, Claim 4, or Claim 7. Thus, these rejections are improper.

First, claim 1 has been amended to eliminate any possible overlap with Hcaplus 1977:52064, Hcaplus 1974:129778, and Hcaplus 1989:186494. Furthermore, Claim 4 requires that "at least one of R₂, R₃ and R₄ must be other than hydrogen." None of the Hcaplus references disclose a compound that meets this requirement. Similarly, Claim 7 is not anticipated by any of the Hcaplus references because Claim 7 does not include a compound that contains a phosphate group. Thus, these rejections should be withdrawn upon reconsideration.

Turning to the Examiner's rejections of Claims 2, 5, and 8 under 35 U.S.C. § 103(a), there is no basis on which the cited references could render Claims 2, 5, and 8 obvious. As discussed above, the Hcaplus references fail to identically disclose or describe the compounds of Claims 1, 4, and 7, on which Claims 2, 5, and 8 depend. Nor do these references disclose a "pharmaceutically acceptable carrier medium" as required by the claims. Thus, these references do not render any of claims 2, 5 and 8 obvious.


The remaining claims 3, 6 and 9 are directly or indirectly dependent on Claims 1, 4 or 7, as the case may be, and are allowable over the art for the same reasons above adduced relative to claims 1, 4 and 7, as well as for their own additional limitations.

New claim 36 comprises claim 3, which was indicated to be allowable over the art, in independent form.

Having dealt with all the objections raised by the Examiner, the Application is believed to be in order for allowance. Early and favorable action is respectfully requested.

Credit card payment in the amount of \$960.00 to cover the costs of the Request for Continued Examination and the Petition for Three Month Extension of time is being made via EFS Web. In the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account Number 08-1391.

Respectfully submitted,



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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this paper is being deposited with the United States Patent Office via the electronic filing procedure on November 25, 2009 at Tucson, Arizona.



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